

HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES

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# HOUSE RESEARCH ORGANIZATION

## daily floor report

Friday, May 08, 2015  
84th Legislature, Number 66  
The House convenes at 9 a.m.  
Part Two

Twenty-two of the bills set for second-reading consideration on the daily calendar are listed on the following page.

The House will consider a Local, Consent, and Resolutions Calendar.



Alma Allen  
Chairman  
84(R) - 66

## HOUSE RESEARCH ORGANIZATION

Daily Floor Report

Friday, May 08, 2015

84th Legislature, Number 66

Part 2

HB 2595 by Keffer	Prohibiting municipalities from restricting certain property rights	57
HB 1189 by Guillen	Requiring an oyster license buyback program	59
HB 2632 by Dutton, Jr.	Amending court penalties and procedures for truancy cases	61
HB 3048 by Deshotel	Health care funding for the City of Beaumont	66
HB 2847 by Crownover	Permitting schools to maintain, administer epinephrine auto-injectors	70
HB 2794 by Farney	Facilitating access to delayed birth certificates	73
HB 1200 by Simpson	Creating civil liability for production and sale of synthetic substances	76
HB 3808 by Rodriguez	Loans to local governments, defense communities affected by BRAC	78
HB 2919 by Raney	Creating an energy efficiency program for certain state-owned buildings	80
HB 2965 by Gonzales	Hiring administrative support members of the Texas Military Forces	82
HB 4097 by Hunter	Requiring studies, authorizing permits related to seawater desalination	84
HB 2982 by Israel	Relating to renewal of an appointment as a voluntary deputy registrar	88
HB 3462 by Deshotel	Creating regional emergency communication districts	90
HB 3736 by Davis	Conflicts of interest disclosure by agency governing boards and officers	93
HB 4077 by Guillen	Adding certain types of carbon dioxide to abusable volatile chemicals list	95
HB 3387 by Krause	Sex offender treatment as a parole condition for certain sex offenders	97
HB 2851 by Parker	Limiting liability for directors of the Charter School Finance Corporation	99
HB 2688 by Workman	Authorizing tourism public improvement districts in certain municipalities	101
HB 3277 by Dutton, Jr.	Expanding ombudsman oversight authority of juvenile detention facilities	103
HB 3724 by Herrero	Court consideration of scientific evidence for some writs of habeas corpus	105
HB 530 by Hernandez	Proceeds from criminal asset forfeitures for certain college scholarships	107
HB 227 by Guillen	Raising limit for rural scholarship fund; creating new fund	110

SUBJECT: Prohibiting municipalities from restricting certain property rights

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 5 ayes — Alvarado, R. Anderson, Bernal, Elkins, Schaefer  
0 nays  
2 absent — Hunter, M. White

WITNESSES: For — Bill Stevens, Texas Alliance of Energy Producers; Jess Fields and Bill Peacock, Texas Public Policy Foundation; Tricia Davis, Texas Royalty Council; Stephanie Simpson, TX Association of Manufacturers; (*Registered, but did not testify*: Adrian Acevedo, Anadarko Petroleum Corp; Matthew Thompson, Apache Corporation; Margo Cardwell, Chesapeake Energy; Julie Williams, Chevron; Steve Perry, Chevron USA; Stan Casey, Concho Resources, Inc.; Teddy Carter, Devon Energy; Dan Hinkle, EOG Resources; Hugo Gutierrez, Marathon Oil Corp.; Amy Maxwell, Marathon Oil Corporation; Annie Spilman, National Federation of Independent Business/TX; Mark Gipson, Pioneer Natural Resources; Laramie Adams, Texas and Southwestern Cattle Raisers Association; David Mintz, Texas Apartment Association; Stephen Minick, Texas Association of Business; Patrick Tarlton, Texas Chemical Council; Marissa Patton, Texas Farm Bureau; Ronald Hufford, Texas Forestry Association; Lindsey Miller, Texas Independent Producers and Royalty Owners Association; Laura Buchanan, Texas Land and Mineral Owners Association; Jim Reaves, Texas Nursery and Landscape Association; Shannon Rusing, Texas Oil and Gas Association; Thure Cannon, Texas Pipeline Association; Robert Turner, Texas Poultry Association; Joe Morris, Texas Sheep and Goat Raisers Association)

Against — John Steiner, City of Austin; (*Registered, but did not testify*: TJ Patterson, City of Fort Worth; Luke Metzger, Environment Texas; Cyrus Reed, Lone Star Chapter Sierra Club; Megan Randall, Texas Appleseed)

On — Bennett Sandlin, Texas Municipal League

**BACKGROUND:** Under Local Government Code, sec. 51.072, home-rule municipalities have full power of local self-government. The courts of this state have defined that to mean full authority to do anything the Legislature could have authorized. The Legislature can limit the power of home rule municipalities, but home-rule municipalities do not need to be granted power by the Legislature in order to act.

**DIGEST:** HB 2595 would prohibit a home-rule municipality from:

- accepting for verification, certification, or other approval a petition requesting the enactment or repeal of an ordinance or charter provision if it would restrict the right of any person to use or access the person's private property for economic gain; or
- holding an election proposed by a petition on such an ordinance or charter provision.

Any enactment or repeal of an ordinance or charter provision prohibited by this bill would have no effect, and an election held on such an ordinance or provision would be void.

Any person whose rights were affected by a violation of the provisions of this bill could sue for injunctive relief.

This bill would take effect September 1, 2015, and would apply only to petitions submitted on or after that date.

SUBJECT: Requiring an oyster license buyback program

COMMITTEE: Culture, Recreation, and Tourism — committee substitute recommended

VOTE: 6 ayes — Guillen, Frullo, Larson, Márquez, Murr, Smith  
0 nays  
1 absent — Dukes

WITNESSES: For — Clifford Hillman, Hillman Shrimp and Oyster Co.; Tracy Woody, Jeris Seafood, Inc.; (*Registered, but did not testify*: Joey Park, Coastal Conservation Association Texas; Corey Howell, Misho Oyster Company, Prestige Oyster, Inc.; Chloe Lieberknecht, the Nature Conservancy)  
  
Against — None  
  
On — (*Registered, but did not testify*: Robin Riechers, Texas Parks and Wildlife Department)

BACKGROUND: Parks and Wildlife Code, ch. 76 governs oyster regulations. Sec. 76.119(a) assigns responsibility for violations involving vessels licensed as commercial oyster boats.  
  
Ch. 76, subch. F governs the Texas the Parks and Wildlife Department's oyster license moratorium program, which was established in response to the overharvesting of oysters.

DIGEST: CSHB 1189 would require the Parks and Wildlife Department to implement a license buyback program for commercial oyster boat licenses as part of the oyster license moratorium program. The commission would establish criteria, in consultation with the oyster license moratorium review board, for the department's use in selecting licenses to be purchased. The department would retire each license purchased under the buyback program until the commission found that management of the oyster fishery allowed for reissue of these licenses either by auction or lottery.

The department would set aside an amount, determined by commission rule, that equaled at least 20 percent of the fees collected from the sale of oyster licenses to buy back licenses from willing license holders. That money would be sent to the comptroller for deposit in the game, fish, and water safety account. The department also could solicit grants and donations from public or private sources to buy back licenses. Money used to buy back licenses would not be subject to Government Code provisions governing the use of dedicated revenue.

By November 1, 2018, the department would report to the governor and Legislature an overview of the administration and status of the oyster license buyback program, including its biological, sociological, and economic effects. This provision would expire September 1, 2019.

CSHB 1189 also would add a violation relating to oyster size limitations on vessels licensed as commercial oyster boats, for which every member of the crew would be held responsible. In addition, the bill would allow the Parks and Wildlife Commission, after consulting with commercial oyster boat license holders, to establish a vessel monitoring system for commercial oyster boats.

The commission would adopt rules to administer the license buyback program and the report to the governor and Legislature. The commission would have until June 1, 2016, to adopt these rules, and the provisions they implement would take effect the same date. Rules adopted by the commission under CSHB 1189 would prevail over any conflicting provision in ch. 76.

Except as otherwise provided, the bill would take effect September 1, 2015.

SUBJECT: Amending court penalties and procedures for truancy cases

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 5 ayes — Dutton, Riddle, Peña, Rose, J. White

0 nays

2 absent — Hughes, Sanford

WITNESSES: For — Leah Welch; (*Registered, but did not testify*: Matt Simpson, ACLU of Texas; Traci Berry, Goodwill Central Texas; Veronica Delgado-Savage, Southwest Key Programs, Inc.; Stephen Maguire, Texas Network of Youth Services; Larriann Curtis, Texas PTA; Adrianna Cuellar Rojas, United Ways of Texas)

Against — Jody Lyons, Frisco ISD Truancy Prevention; William Chapman, Jarrell ISD; James Henry, Justice Court/Juvenile Case Managers; John Payton and David Cobos, Justices of the Peace and Constables Association of Texas; Mindy Morris, Texas Truancy and Dropout Prevention Association; Emily Arroyo; Bill Gravell; (*Registered, but did not testify*: Boyd Richie, Dallas County Truancy Courts; Peter Perez, Elgin ISD; Carlos Cantu, Efrain Davila, and Marsha Winship, Georgetown ISD; Tammy Fitzner, Jarrell ISD; Jennifer Sellers, Texas Students First; Brian Goodman, TRAC; Melissa Goins and Stacey Warner, Williamson County Justice of the Peace Precinct 3)

On — Michael Clearman, Aim; Ron Quiros, Guadalupe County Juvenile Probation and Central Texas Chiefs Association; Robert Garcia, El Paso County Justice of the Peace Precinct 2; Mary Mergler, Texas Appleseed; John Dahill, Texas Conference of Urban Counties; John Kreager, Texas Criminal Justice Coalition; Nichole Bunker-Henderson, Texas Education Agency; Mark Williams, Texas Probation Association; Shannon Edmonds; Tammy Edwards; Steve Swanson; (*Registered, but did not testify*: Arlynn Garcia and Cynthia Rede, El Paso County Justice of the Peace Precinct 2; David Slayton, Texas Judicial Council; Bronson Tucker, Texas Justice Court Training Center; Jill Mata, Texas Juvenile Justice

Department)

**BACKGROUND:** Education Code, sec. 25.094 makes it a class C misdemeanor (maximum fine of \$500) for an individual who is required to attend school and is between the ages of 12 and 17 to fail to attend school on 10 or more days or parts of days within a six-month period or on three or more days or parts of days within a four-week period. Offenses may be prosecuted in municipal or justice courts or in constitutional county court if the county where the student lives or where the school is located has a population of 1.75 million or more.

Truancy also is considered “conduct indicating a need for supervision” under Family Code, sec. 51.03(b)(2) and is a civil matter when handled through juvenile probation and the juvenile courts.

When a student has 10 or more unexcused absences, Education Code, sec. 25.0951(a) requires school districts to either refer the student to juvenile court or to file complaints against a student, the student’s parent, or both for either the offense of truancy or the offense of parent contributing to nonattendance, found in Education Code, sec. 25.093. The criminal complaints can be filed in county, justice, or municipal courts.

**DIGEST:** CSHB 2632 would make the failure to attend school subject to a civil penalty, instead of a criminal offense, and would require the automatic expunction of truancy records or complaints.

**Civil penalty for failure to attend school.** The bill would replace the current class C misdemeanor for failure to attend school with a civil penalty of \$100. The imposition of the civil penalty would not be considered a conviction for any purpose. If a student had 10 or more unexcused absences, districts would be able, but not required, to file a civil action against the student in county, justice, or municipal court or to refer the student to a juvenile court. The current requirement that school districts file a court complaint against the student’s parents if a student had 10 or more unexcused absences would be made permissive.

**Automatic expunction of truancy records.** Students convicted of a truancy offense or who had a truancy complaint dismissed would be entitled to have the conviction or complaint and related records automatically expunged. The court handling the case would be required to order the records, including documents in possession of the school district or a law enforcement agencies, to be expunged from the student's record. After a court entered an expunction order, the conviction or complaint could not be shown or made known for any purpose. The court would be required to tell the student of the expunction.

The bill would repeal provisions for expunging records relating to criminal convictions for failure to attend school and would eliminate the \$30 fee that courts can charge defendants in these cases to defray the cost of notifying state agencies of an expunction order.

The bill would take effect September 1, 2015, and would apply to persons issued citations or taken into custody on or after that date.

**SUPPORTERS  
SAY:**

**Civil penalty for failure to attend school.** CSHB 2632 is needed to move the state away from relying on the criminal justice system to handle truancy. While the state and school districts should take truancy seriously, it is not a criminal act and is best handled in other ways.

Many jurisdictions use the current option of filing criminal truancy complaints in justice or municipal courts, which can result in overly harsh consequences. For example, a conviction can result in a criminal record, which can have long-lasting effects on obtaining jobs, higher education, and more. Students can be assessed \$500 fines and court costs that can be difficult for some to pay, resulting in additional consequences. Unpaid fines can lead some to drop out of school and could lead to an arrest when students turn 17 years old.

Judges can order students to attend programs, which may be hard to attend or inappropriate. It can be difficult for students or their parents to understand the potential consequences of a criminal conviction, especially because students have no right to legal representation for class C misdemeanors and may be before the courts without an informed legal

advocate.

Handling these cases in criminal courts can be especially unfair because some truant students have underlying problems or reasons outside of their control that keep them from school. For example, family, health, economic, and transportation issues can lead to multiple absences. The consequences for truancy can fall disproportionately on low-income, minority, and disabled students.

The bill would address these issues by eliminating the criminal offense of truancy and handling cases more appropriately as civil or juvenile court actions. The bill would lower the fine to a more reasonable \$100 and would eliminate the inflexible mandate that forces certain cases to be cited as a class C misdemeanor in local courts or to be referred to the juvenile court system. Instead, school districts would have the option to refer cases as civil or juvenile court actions. Texas schools already are required to have truancy prevention measures in place and should be allowed to craft interventions they think are appropriate and effective in their respective communities.

The bill also would keep the current offense that allows parents to be held accountable for truancy but would make filing such cases optional. This would give districts additional flexibility in handling these cases.

A uniform, statewide approach is needed to reduce inconsistent treatment of truancy and to keep all truants out of the criminal justice system. The bill would put Texas in line with almost every state by handling truancy as a civil matter.

**Automatic expunction of truancy records.** The bill would require automatic record expunction for those with criminal truancy convictions to ensure that these students were not burdened with a criminal record after the offense was decriminalized.

OPPONENTS  
SAY:

**Civil penalty for failure to attend school.** The Legislature should not reduce the tools available to school districts to handle students who accumulate excessive unexcused absences by eliminating the class C misdemeanor for truancy. Truancy is properly classified as a class C

misdemeanor, making it analogous to a traffic citation.

By the time a case is filed in a justice or municipal court, students have been given multiple chances to meet attendance requirements, and court intervention may be necessary. Some municipal and justice courts have developed successful programs, services, and partnerships to address failure to attend school, and in some cases these might be the best option. There are different kinds of truancy, some of which might best be handled by a class C misdemeanor citation to get some students to attend school. Current law contains provisions allowing truancy records to be expunged.

The bill could result in more cases being handled by juvenile courts, which already have full caseloads of more serious cases. An influx of truancy cases could strain juvenile courts and cause delays, which is especially unwise in truancy cases in which the goal is to get the student back in school. Costs for these cases could increase, including costs for retaining and providing lawyers.

**Automatic expunction of truancy records.** The bill contains no guidelines for when truancy records would be automatically expunged, which could lead to confusion and could make it difficult for prosecutors and others to track previous offenses.

OTHER  
OPPONENTS  
SAY:

CSHB 2632 would provide needed improvements to how the state handles truancy cases; however, the bill also should require certain progressive truancy interventions at schools to help address issues before cases were referred to court. These interventions could help reduce any potential influx of truancy cases to juvenile courts under the bill.

NOTES:

The Legislative Budget Board estimates that CSHB 2632 would result in a gain of \$4.4 million to general revenue through fiscal 2016-17.

**SUBJECT:** Health care funding for the City of Beaumont

**COMMITTEE:** Public Health — committee substitute recommended

**VOTE:** 10 ayes — Crownover, Naishtat, Blanco, Coleman, S. Davis, Guerra, R. Miller, Sheffield, Zedler, Zerwas

0 nays

1 absent — Collier

**WITNESSES:** For — Steve Aragon, Christus Health; Paul Trevino, Christus Southeast Texas; (*Registered, but did not testify:* Gabriela Saenz, Christus Health; Miryam Bujanda, Methodist Healthcare Ministries; Mariah Ramon, Teaching Hospitals of Texas; Jennifer Banda, Texas Hospital Association)

Against — None

**BACKGROUND:** The Medicaid sec. 1115 transformation waiver is a five-year demonstration waiver in effect through September 2016. The sec. 1115 waiver provides new means for local entities to access additional federal matching funds through regional coordination. The waiver provides for supplemental funding to certain Medicaid providers in Texas in the form of two new pools: the uncompensated care pool and the Delivery System Reform Incentive Payment pool.

To receive funding available through the sec. 1115 waiver, a governmental entity must provide funding, in the form of an intergovernmental transfer to the Health and Human Services Commission, which then would have those funds matched by the federal government and sent to the Medicaid provider designated by the governmental entity that provided the match funding.

The city of Beaumont does not have a hospital district that would allow it to use intergovernmental transfers to draw down federal matching funds for health care projects under the state's sec. 1115 Medicaid transformation waiver.

In 2013, the Legislature enacted SB 1623 by Hinojosa allowing three South Texas counties the option to draw down federal matching funds for their communities. Some have called for similar legislation allowing Beaumont to establish a local provider participation fund to allow the city to draw down federal matching funds to increase access to health care for its residents.

**DIGEST:** HB 3048 would allow the city of Beaumont to adopt an ordinance authorizing the city's participation in a municipal health care provider participation program. The program would authorize Beaumont to collect a mandatory payment from each institutional health care provider in the city to be deposited in a local provider participation fund (LPPF) established by the city.

**Mandatory payments.** The bill would specify how the institutional health care providers' mandatory payments would be assessed and would specify how the governing body of Beaumont would set the amount of the mandatory payment. The city tax assessor-collector would collect the mandatory payment or the city could contract for the assessment and collection of the payments. Interest, penalties, and discounts on mandatory payments required under the bill would be governed by law applicable to municipal ad valorem taxes.

The governing body of Beaumont would need an affirmative vote of a majority of its members to authorize the collection of a mandatory payment for the LPPF. The bill would prohibit a paying hospital from adding a mandatory payment as a surcharge to a patient.

Beaumont would hold a public hearing on the amounts of any mandatory payments that the city intended to require during the year and on how the revenue from those payments would be spent. Public notice of the hearing would have to be published in a newspaper and a representative of a paying hospital would be entitled to be heard regarding the issue of the mandatory payments. The bill would require each institutional health care provider to submit to the city a copy of certain financial and utilization data reported to the Department of State Health Services.

The bill would specify that if a provision or procedure caused a mandatory payment to be ineligible for federal matching funds, the city could provide by rule for an alternative provision or procedure that would conform to the requirements of the federal Centers for Medicare and Medicaid Services, which regulate the Medicaid program.

**Composition and use of the LPPF.** The LPPF would consist of:

- all revenue received by the city that was attributable to mandatory payments from institutional health care providers, including any penalties and interest due to delinquent payments;
- money received from the Health and Human Services Commission as a refund of an intergovernmental transfer from the city to the state; and
- the earnings of the fund.

Money deposited to the LPPF could be used only to:

- fund intergovernmental transfers from the city to the state to provide the nonfederal share of a Medicaid supplemental payment program authorized under the state Medicaid plan, the state's sec. 1115 Medicaid transformation waiver, or a successor waiver program authorizing similar Medicaid supplemental payment programs;
- subsidize indigent programs;
- pay certain city administrative expenses related to the LPPF;
- refund a portion of a mandatory payment collected in error from a paying hospital; and
- refund to paying hospitals the proportionate share of money received by Beaumont from the Health and Human Services Commission that was not used to fund the nonfederal share of Medicaid supplemental payment program payments.

The bill would specify that money in the LPPF could not be commingled with other city funds and that an intergovernmental transfer and any funds received as a result of an intergovernmental transfer could not be used by a city or any other entity to expand eligibility for Medicaid under the

federal Affordable Care Act.

**Federal waiver or authorization.** If, before implementing any provision of the bill, a state agency determined that a waiver or authorization from a federal agency was necessary for implementation of that provision, the bill would direct the agency affected by the provision to request the waiver or authorization and would allow the agency to delay implementing that provision until the waiver or authorization was granted.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

**SUBJECT:** Permitting schools to maintain, administer epinephrine auto-injectors

**COMMITTEE:** Public Education — committee substitute recommended

**VOTE:** 8 ayes — Aycock, Bohac, Deshotel, Dutton, Farney, Galindo, González, K. King

0 nays

3 absent — Allen, Huberty, VanDeaver

**WITNESSES:** For — Bruce Lott, Mylan; Louise Bethea, Texas Allergy Society; Francis Luna, Texas School Nurses Organization (*Registered, but did not testify*: John Hubbard, Coalition for Nurses in Advanced Practice; Fred Shannon, National Safety Council; Dwight Harris, Texas American Federation of Teachers; Barry Haenisch, Texas Association of Community Schools; Casey McCreary, Texas Association of School Administrators; Bradford Shields, Texas Federation of Drug Stores; Troy Alexander, Texas Medical Association; Andrew Cates, Texas Nurses Association; Clayton Travis, Texas Pediatric Society; Kyle Ward, Texas PTA; Colby Nichols, Texas Rural Education Association; Grover Campbell, Texas Association of School Boards; Casey Smith, United Ways of Texas)

Against — None

On — (*Registered, but did not testify*: Anita Wheeler, Department of State Health Services; Nichole Bunker-Henderson, Von Byer, Texas Education Agency)

**BACKGROUND:** Education Code, sec. 38.0151 requires school boards or governing bodies in each school district or open-enrollment charter school to develop and administer policies for the care of students at risk for anaphylaxis. Policies developed under the statute may not require schools to purchase or administer anaphylaxis medication such as epinephrine auto-injectors, which typically may only be prescribed to individuals with a known risk of anaphylaxis.

**DIGEST:** CSHB 2847 would allow school districts and open-enrollment charter schools to develop policies for having a supply of epinephrine auto-injectors available on their campuses and at school events to any individuals reasonably believed to be experiencing anaphylaxis, regardless of whether the individuals have a prescription for the device. The bill would provide for certain training, storage, reporting, and notice requirements, and would offer protection from liability to individuals involved in administering epinephrine auto-injectors under the bill.

Under the bill, school districts and charter schools would be able to choose whether or not to implement a policy of having the auto-injectors available. Schools that wished to do so would be required to develop specific policies for the maintenance, administration, and disposal of epinephrine auto-injectors at each campus, including:

- allowing authorized and trained school personnel and school volunteers to administer the epinephrine on campus, at off-campus events, or in transit to off-campus events;
- having at least one person available on campus at all times during operating hours who is trained in and authorized to administer epinephrine auto-injectors; and
- securing stores of epinephrine auto-injectors in a location that is easily accessible to authorized and trained individuals.

Individuals authorized to administer the epinephrine auto-injectors would be required to undergo an annual training either in either a formal setting or online. Schools that elected to have the auto-injectors available for use would be required to notify parents before implementing such a policy and to provide notice before the start of each school year.

The bill would require the commissioner of the Department of State Health Services to consult with the commissioner of education and an advisory committee composed mainly of physicians with expertise in treating anaphylaxis to develop rules regarding the maintenance, administration, and disposal of epinephrine auto-injectors on school campuses. The bill would specify the duties and powers of the committee, including developing guidelines for the number of epinephrine injectors to have on each campus, and the amount of training required for individuals

authorized to administer the auto-injectors.

The bill would permit a physician or someone delegated to prescribe an epinephrine auto-injector under Occupations Code, sec. 157.001 to prescribe standing orders of epinephrine auto-injectors to school districts and open-enrollment charter schools without requiring an established doctor-patient relationship. Pharmacists also would be permitted to dispense epinephrine auto-injectors to school districts or charter schools without requiring a name or other identifying information related to a user.

In instances where an epinephrine injector was used, the bill would mandate a report within 10 business days to the school district, prescribing physician, and commissioners of health and education outlining certain information about the incident, such as the number of doses administered. The bill would provide immunity from liability for any person who in good faith takes or fails to take any action related to school epinephrine auto-injectors as permitted by the bill, including administering the auto-injector, maintaining the auto-injectors, or undertaking any other act permitted or required under the bill.

The bill would exempt school districts or open-enrollment charter schools that elect to maintain, administer, or dispose of epinephrine auto-injectors from the requirements of Education Code, sec. 38.0151 regarding established policies for the care of students at risk for anaphylaxis. The provisions of the bill would apply beginning with the 2015-2016 school year.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

**SUBJECT:** Facilitating access to delayed birth certificates

**COMMITTEE:** Judiciary and Civil Jurisprudence — committee substitute recommended

**VOTE:** 9 ayes — Smithee, Farrar, Clardy, Hernandez, Laubenberg, Raymond, Schofield, Sheets, S. Thompson

0 nays

**WITNESSES:** For — William Morris, Texas Family Law Foundation; Jenni Elenniss; Faith Pennington; Alecia Southworth; (*Registered, but did not testify*: James Southworth; Steve Bresnen, Texas Family Law Foundation)

Against — None

**BACKGROUND:** Health and Safety Code, ch. 192 establishes the procedures for applying for a delayed birth certificate. Current law allows a person four years old or older to apply for a delayed certificate of birth to the state registrar. The application must be accompanied by certain documentary evidence of the applicant's date and place of birth and parentage. The state registrar may not register a delayed birth certificate if the documentary evidence is not submitted, or there is reason to question the validity or adequacy of the documentary evidence.

If a delayed birth certificate is not accepted for registration by the state registrar, the person may file a petition in the county probate court of the county in which the birth occurred for an order establishing a record of the person's date of birth, place of birth, and parentage.

Delayed birth certificates often are sought by individuals whose parents deny them their birth certificates. Without a birth certificate, it is difficult or impossible for individuals to gain employment, enroll in college, or open a bank account, among other things. Often, individuals in this situation have moved away from their county of birth and have a difficult time returning to file petitions with county courts. When they are able to return, they often have difficulty proving their date and place of birth and parentage because their parents are not penalized if they do not cooperate

with the proceedings.

**DIGEST:**

CSHB 2794 would allow people to file petitions for orders establishing a record of the person's date of birth, place of birth, and parentage with either the district court with jurisdiction over the county in which they were born or in the district court with jurisdiction over the county where they reside.

The petition would include the name and place of residence of the petitioner, whether the petitioner had been convicted of a felony, whether the petitioner was required to register as a sex offender, and a complete set of the petitioner's fingerprints.

At a hearing on the petition, the court could consider evidence submitted to the registrar and any other relevant evidence. If the court found that the person was born in Texas, it would be required to make findings as to the person's date and place of birth and parentage, make any other findings required by the case, and enter an order establishing a record of birth.

The court could appoint an attorney ad litem to represent the petitioner.

The bill also would require a parent of the petitioner to sign an affidavit of personal knowledge acknowledging that the individual was the parent of the petitioner if:

- the petitioner, the petitioner's conservator or guardian, or the person with custody of the petitioner, requested that the parent sign the affidavit; and
- the affidavit was necessary for the issuance of a birth certificate because the petitioner was unable to provide sufficient evidence without it.

The parent would be required to sign the affidavit within 30 days after the request was made or the parent would be found to have committed:

- a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000), if the petitioner was between 4 and 14 years old; or
- a class A misdemeanor (up to one year in jail and/or a maximum

fine of \$4,000), if the petitioner was age 15 or older.

The bill would take effect September 1, 2015.

SUBJECT: Creating civil liability for production and sale of synthetic substances

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Smithee, Farrar, Clardy, Hernandez, Laubenberg, Raymond,  
Schofield, Sheets, S. Thompson

0 nays

WITNESSES: For — Eric Brown; (*Registered, but did not testify*: Scott Bradford)

Against — (*Registered, but did not testify*: Mike Hull, Texans for Lawsuit Reform)

On — (*Registered, but did not testify*: Bryan Blevins, Texas Trial Lawyers Association)

BACKGROUND: The distribution of certain synthetic substances that mimic the physiological effects of controlled substances has increased in recent years. These substances are considered more dangerous than their natural counterparts because the substances are designed to better fit the receptors of the brain and intensify the effects.

Legislators and law enforcement have attempted to solve the problem by treating the products as contraband, but this approach has not been effective because the producers of synthetic substances simply alter the chemical makeup of their product once the chemical has been identified as a controlled substance.

DIGEST: CSHB 1200 would create civil liability for damages proximately caused by the consumption or ingestion of a synthetic substance by another person if the actor:

- produced, distributed, sold, or provided the synthetic substance to another person; or
- aided in the production, distribution, sale, or provision of the synthetic substance to the other person.

The actor would be strictly liable for all damages caused by the consumption or ingestion of the synthetic substance if the person consuming or ingesting the substance was a minor.

The bill would define a synthetic substance as an artificial substance that produced and was intended to produce when consumed or ingested an effect similar to or in excess of the effect produced by the consumption or ingestion of a controlled substance.

Conduct for which this bill creates liability would be considered a false, misleading, or deceptive act or practice or an unconscionable action under the Deceptive Trade Practices Act.

Under the bill, any person found liable for any amount of damages arising from the provisions of the bill would be jointly and severally liable with any other person for the entire amount of the damages awarded. A claim could include a claim for exemplary damages. Exemplary damages under this bill would not be capped at \$200,000 or two times the amount of economic damages plus noneconomic damages. The criminal act of another would not bar a plaintiff from recovering exemplary damages from a defendant.

The bill would create an affirmative defense to liability if the synthetic substance produced, distributed, sold, or provided was approved for use, sale, or distribution by the U.S. Food and Drug Administration or other state or federal regulatory agency. It would not be a defense to liability if the substance were in packaging labeled with wording indicating that the substance was not intended to be ingested.

This bill would take effect September 1, 2015, and would apply only to cause of actions that accrue on or after that date.

SUBJECT: Loans to local governments, defense communities affected by BRAC

COMMITTEE: Defense and Veterans' Affairs — committee substitute recommended

VOTE: 7 ayes — S. King, Frank, Aycock, Blanco, Farias, Schaefer, Shaheen  
0 nays

WITNESSES: For — (*Registered, but did not testify*: Seth Mitchell, Bexar County Commissioners Court; Brie Franco, City of El Paso; TJ Patterson, City of Fort Worth; Sam Fugate, City of Kingsville; Jim Allison, County Judges and Commissioners Association of Texas; Chris Shields, Port San Antonio; Dick Messbarger, Texas Defense, Aviation, Aerospace Alliance; Stephanie Simpson, Texas Association of Manufacturers; James Cunningham, Texas Coalition of Veterans Organizations, Texas Council of Chapters of the Military Officers Association of America; Shanna Igo, Texas Municipal League; Snapper Carr, Texas Mayors of Military Communities)

Against — None

On — Keith Graf, Office of the Governor

BACKGROUND: Funds from the Texas Military Value Revolving Loan Fund and grants from the Defense Economic Adjustment Assistance Grant Program are used to help local governments and defense communities redevelop and repurpose abandoned property left after military base realignments and closures. The grants and loans also may be used for infrastructure projects on current bases to prevent closure. Currently, only military installations that have been affected by base realignment and closure (BRAC) during or after 2005 may qualify for a loan.

Government Code, sec. 436.1531 allows the Economic Development and Tourism Office to provide a loan to a defense community for an economic development project that minimizes the negative effects of a defense base reduction as a result of a base realignment process that occurred during 2005 or later.

Section 436.1532 allows the Economic Development and Tourism Office to provide a loan to these communities for an infrastructure project for new or expanded military missions resulting from a base realignment that occurred during 2005 or later.

DIGEST:

CSHB 3808 would change the year during or after which a base realignment process would be required to have occurred for a local government entity or defense community to be eligible for an economic development project loan or an infrastructure project loan. The Economic Development and Tourism Office would be authorized to provide grants or loans if the realignment process occurred in 1995 or after, rather than 2005 or after as under current law.

The bill would add the construction of infrastructure and other projects necessary to prevent the reduction or closing of a defense facility as another criterion for which the Texas Military Preparedness Commission could make a grant to an eligible local government entity. The bill also would increase from \$2 million to \$5 million one of the restrictions placed on the amount of a grant the commission could provide to a local government entity.

The bill would add a defense base development authority as an eligible local government entity that could use the grant money to purchase or lease equipment to train workers. In addition to using the equipment to train defense workers whose jobs had been threatened or lost because of a realignment of defense worker jobs or facilities, the equipment also could be used to train workers to support military installations or defense facilities.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

**SUBJECT:** Creating an energy efficiency program for certain state-owned buildings

**COMMITTEE:** Energy Resources — committee substitute recommended

**VOTE:** 10 ayes — Darby, Paddie, Anchia, Canales, Dale, Keffer, Landgraf, Meyer, Riddle, Wu

0 nays

3 absent — Craddick, Herrero, P. King

**WITNESSES:** For — Mike Peters, Lewis Energy Group; (*Registered, but did not testify:* Michael Chatron, AGC Texas Building Branch; Steve Perry, Chevron USA; Cyrus Reed, Lone Star Chapter Sierra Club; David Weinberg, Texas League of Conservation Voters; John Pitts, Jr., Texas Solar Power Association)

Against — None

On — Dub Taylor, Comptroller of Public Accounts, State Energy Conservation Office; David Claridge, Energy Systems Laboratory, TEES; (*Registered, but did not testify:* John Raff, Texas Facilities Commission)

**BACKGROUND:** Government Code, ch. 2166 governs state building construction and acquisition and disposition of real property. Ch. 2166, subch. I provides provisions related to the conservation of energy and water at state buildings.

Recently, the private sector has been making significant advances in the use of energy-efficient technologies and practices. Observers have noted that Texas could examine how changes could be made in energy use on the state level and implement energy-efficient practices to ensure that the state used taxpayer dollars efficiently.

**DIGEST:** CSHB 2919 would require the Texas A&M Energy Systems Laboratory, in consultation with the Texas Facilities Commission and the State Energy Conservation Office, to create a pilot program in which the State Energy

Conservation Office made or guaranteed loans to governmental entities to finance energy efficiency improvements in state-owned buildings that would generate a 30 percent return on investment from savings on utility costs.

Money saved from decreased utility costs could be appropriated only to the agency that owned the buildings with energy efficiency improvements.

The provisions in this bill would expire August 31, 2020.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

**SUBJECT:** Hiring administrative support members of the Texas Military Forces

**COMMITTEE:** Defense and Veterans' Affairs — favorable, without amendment

**VOTE:** 6 ayes — S. King, Frank, Aycock, Blanco, Farias, Schaefer  
1 nay — Shaheen

**WITNESSES:** For — (*Registered, but did not testify*: Ernest Garcia)  
  
Against — None  
  
On — Duane Waddill, Texas Military Department; John Nichols, Texas Military Forces

**BACKGROUND:** Government Code, ch. 437 defines “Texas military forces” as the Texas National Guard, the Texas State Guard, and any other military force organized under state law.  
  
Members of the Texas military forces are frequently subject to reassignments and rotations between positions. Extended deployments are uncommon, so there is usually no long-term stability in these positions.

**DIGEST:** HB 2965 would allow the adjutant general of the Texas military forces to hire service members to fill state military technical positions with the Texas Military Department. These members would be considered to be on extended state active duty service, which would entitle them to the benefits and paid leave generally provided to state employees.  
  
The bill would require the adjutant general to establish the criteria for activating these service members, and the Texas Military Department would be required to maintain the criteria.  
  
The bill would allow for a state military technician position to have a limited term with a defined end date or be a continuing position without a defined end date. The department, as soon as practicable before the end of each state fiscal year, would be required to notify each member on

extended state active duty service as to whether the department would continue the member's position during the next state fiscal year.

The bill would require the Texas Military Department to consult with the classification officer under the Position Classification Act to develop a state salary structure classification that was applicable to service members called to extended state active duty service. The bill would allow for the classification to have automatic salary increases based on the service member's military rank and years of service. It would allow the department to use this salary structure classification before it was adopted in the general appropriations act.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

**NOTES:**

According to the Legislative Budget Board's fiscal note, HB 2965 would have a cost to general revenue of \$335,520 in salary and benefits for two state military technical positions during fiscal 2016-17.

SUBJECT: Requiring studies, authorizing permits related to seawater desalination

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 8 ayes — Keffer, Ashby, D. Bonnen, Frank, Kacal, Larson, Nevárez,  
Workman

0 nays

3 absent — Burns, T. King, Lucio

WITNESSES: For — Martha Landwehr, Texas Chemical Council; Bill Norris, Texas Desal Association; Kyle Frazier, Texas Desalination Association; *(Registered, but did not testify: Ellen Joyce, Central Texas Water Coalition; Todd Votteler, Guadalupe-Blanco River Authority; Bill Oswald, Koch Companies; Mindy Ellmer, Poseidon Water; Hope Wells, San Antonio Water System; Trace Finley, Seven Seas Water; Nelson Salinas, Texas Association of Business; John Dahill, Texas Conference of Urban Counties; Monty Wynn, Texas Municipal League; John W. Fainter Jr., the Association of Electric Companies of Texas, Inc.)*

Against — *(Registered, but did not testify: Michele Gangnes, League of Independent Voters of Texas)*

On — Steve Box, Environmental Stewardship; Ken Kramer, Sierra Club - Lone Star Chapter; Charles Maguire, Texas Commission on Environmental Quality; *(Registered, but did not testify: Linda Brookins, Ron Ellis, and David Galindo, Texas Commission on Environmental Quality)*

BACKGROUND: Under Utilities Code, sec. 31.003, by January 15 of each odd-numbered year, the Public Utility Commission (PUC) is required to report to the Legislature on the scope of competition in electric markets and the effect competition and industry restructuring has had on customers in both competitive and noncompetitive markets.

Under Water Code, sec. 27.021, the Texas Commission on Environmental

Quality (TCEQ) may issue a permit to dispose of brine produced by a desalination operation or of drinking water treatment residuals in a Class I injection well if the applicant for the permit meets all the statutory and regulatory requirements for the issuance of a permit for a Class I injection well.

Texas Water Code, sec. 27.025, allows the TCEQ to issue a general permit authorizing the use of a Class I injection well to inject nonhazardous brine from a desalination operation or to inject nonhazardous drinking water treatment residuals if TCEQ determines that the injection well and injection activities are more appropriately regulated under a general permit than under an individual permit.

**DIGEST:** CSHB 4097 would require studies related to the desalination of seawater, including the adequacy of existing electric infrastructure to serve a seawater desalination project and the potential for a project to participate in demand response opportunities in ERCOT. The bill also would allow TCEQ to issue certain permits related to the desalination of seawater and the associated waste.

**Studying existing transmission and distribution infrastructure.** CSHB 4097 would require the PUC, in cooperation with transmission and distribution utilities and the ERCOT independent system operator, to study whether existing transmission and distribution planning processes would be sufficient to provide adequate infrastructure for seawater desalination projects.

If the PUC determined that statutory changes would be needed to ensure that adequate infrastructure was developed for those projects, the PUC would have to include recommendations in the scope of competition report.

**Studying demand response potential.** The PUC and ERCOT independent system operator would be required to study the potential for seawater desalination projects to participate in existing demand response opportunities in the ERCOT market. To the extent feasible, the study would determine whether seawater desalination projects could participate in ERCOT-operated ancillary services markets or other competitively

supplied demand response opportunities. The study also would have to determine the potential economic benefit of a seawater desalination project reducing its demand during peak pricing periods. The PUC would have to include the results of the study in the scope of competition report.

**Permit for desalination of seawater for industrial purposes.** CSHB 4097 would allow the TCEQ to issue a permit authorizing a diversion of state water from the Gulf of Mexico or a bay or arm of the Gulf of Mexico for desalination and use for industrial purposes.

TCEQ would be required to evaluate whether a proposed diversion was consistent with environmental flow standards and could include any provision in a permit necessary to comply.

A permit application must be submitted as required by TCEQ rule. A permit would not require public notice and would not be subject to a contested case hearing.

**Discharge permits for industrial seawater desalination facilities.** CSHB 4097 would allow TCEQ to issue to an industrial seawater desalination facility a permit for the discharge of water treatment residuals from the desalination of seawater into the Gulf of Mexico.

Before issuing a discharge permit, TCEQ would have to evaluate the discharge for compliance with the state water quality standards and applicable federal law.

**Injection wells.** CSHB 4097 would amend Texas Water Code, sec. 27.021 and sec. 27.025 by providing for the use of injection wells for the disposal of waste produced by the desalination of seawater for industrial purposes.

**Effective date.** This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS  
SAY:

CSHB 4097 would streamline and expedite the permitting process for seawater desalination to serve as a water supply for industrial purposes.

The coastal areas of the state have experienced tremendous industrial growth causing strain on an already limited water supply. CSHB 4097 would take a common-sense approach to setting up a regulatory framework to ensure seawater desalination projects for industrial purposes could move forward.

**OPPONENTS  
SAY:**

CSHB 4097 could damage the state's bays and estuaries and marine resources by exempting water rights diversions for desalination for industrial purposes from adequate environmental review and from hearings, even when located in bays and estuaries or in other sensitive coastal areas. The bill would rely on compliance with environmental flow standards in an attempt to minimize adverse impacts, but those flow standards do not establish protections applicable to these types of activities.

SUBJECT: Relating to renewal of an appointment as a voluntary deputy registrar

COMMITTEE: Elections — committee substitute recommended

VOTE: 5 ayes — Laubenberg, Goldman, Israel, Phelan, Reynolds

1 nay — Schofield

1 absent — Fallon

WITNESSES: For — Glen Maxey, Texas Democratic Party; (*Registered, but did not testify*: Jacquelyn Callanen, Bexar County, Texas Association of Elections Administrators; Jesse Romero, Common Cause Texas; Cinde Weatherby, League of Women Voters of Texas; Chris Frandsen)

Against — Alan Vera, Harris County Republican Party Ballot Security Committee; (*Registered, but did not testify*: Erin Anderson, True the Vote Rosemary Edwards; Kathy Haigler)

On — (*Registered, but did not testify*: Ashley Fischer, Secretary of State)

BACKGROUND: Election Code, sec. 13.031 authorizes county registrars to appoint volunteer deputy registrars for assistance with voter registration. To be eligible to serve as a volunteer deputy registrar, a person must:

- be at least 18 years old;
- not have been convicted of a felony, or have fully discharged a sentence including any parole or supervision period, or have been pardoned;
- meet the requirements to be a qualified voter; and
- not have been convicted of fraudulent use or possession of identifying information.

Volunteer deputy registrars are required to receive training, developed by the secretary of state, on election law and the registration of voters. Volunteer deputy registrars serve terms that expire on December 31 of even-numbered years and must be trained again if they want to serve

another term.

**DIGEST:** CSHB 2982 would require that county voter registrars send notice via mail or email by November 30 of each even-numbered year to all volunteer deputy registrars in the county that their appointment expires December 31. The notice would be accompanied by a renewal application and information about any changes in election law that occurred during the volunteer deputy registrar's term of appointment, and were relevant to the role of the volunteer deputy registrar.

Under the bill, registrars would be required to immediately appoint a volunteer deputy registrar to a new term beginning January 1 if:

- a volunteer deputy registrar signed and returned a renewal application and an affidavit confirming that the person had read and understood any information on changes in election law provided to them before the volunteer deputy registrar's term expired; and
- the person remains eligible to be a volunteer deputy registrar.

A volunteer deputy registrar appointed to a new term would not be required to attend a training unless the volunteer deputy registrar had failed to comply with any of the requirements associated with the position.

**SUBJECT:** Creating regional emergency communication districts

**COMMITTEE:** Homeland Security and Public Safety — committee substitute recommended

**VOTE:** 9 ayes — Phillips, Nevárez, Burns, Dale, Johnson, Metcalf, Moody, M. White, Wray  
0 nays

**WITNESSES:** For — (*Registered, but did not testify*: Holly Deshields, Corporation for Texas Regionalism)  
  
Against — (*Registered, but did not testify*: Chris Kirkendall, South East Texas Regional Planning Commission)  
  
On — (*Registered, but did not testify*: Kelli Merriweather, Commission on State Emergency Communications; Pete De La Cruz, South East Texas Regional Planning Commission)

**BACKGROUND:** Currently, 9-1-1 systems are run by regional planning commissions and emergency communication districts. Unlike emergency communication districts, which have a predictable source of revenue that supports full deployment of digital 9-1-1 services through the collection of 9-1-1 emergency fees, commission-run 9-1-1 systems under the Commission on State Emergency Communications rely on state appropriations. The uncertainty of funding levels for these 9-1-1 systems has made it difficult for regional planning commissions to replace outdated infrastructure.

**DIGEST:** CSHB 3462 would establish the Regional Emergency Communication Districts Act, which would allow for the creation of regional emergency communications districts in a 9-1-1 region. The bill would apply only to 9-1-1 regions in which the total population served by the 9-1-1 system was less than 1.5 million on September 1, 2015, and regions in which the governing bodies of each participating county and municipality in the 9-1-1 region adopted a resolution to participate in the district.

The bill would define a district as a political subdivision of the state that was authorized to carry out essential government functions, including entering into interlocal agreements with other emergency communication districts. The bill would establish how a district could be created and the territory that a district would include.

The bill would require that the district be governed by a board of managers composed largely of elected officials of the participating counties and municipalities. The bill would require these initial members to establish board regulations. It would establish the duties of the board regarding district budgets, rules and bylaws, and governing procedures.

The bill would require that the regional planning commission for the 9-1-1 region serve as the fiscal and administrative agent of the district. The executive director of the commission could serve as the director of the district, and the bill would establish the director's duties, including employing and compensating employees of the commission.

The district would prepare an annual report to include the amount and source of funds received and spent by the district and the results of an independent audit.

The bill would establish the methods by which the district would be required to provide 9-1-1 service and would make 9-1-1 service mandatory for each individual telephone subscriber in the district. It also would establish the digits 9-1-1 as the primary emergency telephone number and would allow public safety agencies to maintain separate numbers.

A 9-1-1 system would have to be capable of transmitting requests for firefighting, law enforcement, ambulance, and medical services to agency providers and could provide for other transmitting requests. The bill also would lay out rules regarding how and when a district could impose emergency service fees, how the board would regulate such fees, and how the fees would be collected.

Service suppliers would be required to identify the telephone number and address of the subscriber for each call, but all information would be

considered confidential and not available for public inspection. The bill also would require the board to periodically hold public review hearings with proper notice and solicit public comments on the continuation of the district and the 9-1-1 emergency service fee. The board would adopt a resolution after the hearing on whether to continue the district and the 9-1-1 emergency service fee.

The bill would provide procedures for the dissolution of a district and discontinuance of 9-1-1 service and the assumption of district assets and service by the regional planning commission. The commission for a 9-1-1 region in which a district was established could transfer to the district any land, buildings, and other assets relating to the provision of 9-1-1 service.

This bill would take effect September 1, 2015.

SUBJECT: Conflicts of interest disclosure by agency governing boards and officers

COMMITTEE: General Investigating and Ethics — committee substitute recommended

VOTE: 6 ayes — Kuempel, Collier, S. Davis, Hunter, Larson, C. Turner

0 nays

1 absent — Moody

WITNESSES: For — (*Registered, but did not testify*:: Joanne Richards, Anti-Corruption Campaign; Liz Wally, Clean Elections Texas; Jesse Romero, Common Cause Texas; Tom “Smitty” Smith, Public Citizen, Inc.; Michael Schneider, Texas Association of Broadcasters; Karen Hadden; Todd Jagger)

Against – None

BACKGROUND: Government Code, ch. 572 prohibits state officers or state employees from having a direct or indirect interest, including financial interests, or engaging in a business transaction or professional activity that is in substantial conflict with the officer’s or employee’s public duties. Some have called for conflict-of-interest rules to be extended to governing officers and state agency governing board members who are not covered by existing law.

DIGEST: CSHB 3736 would require state agency governing board members and governing officers to disclose conflicts of interest and refrain from participating in decisions on matters for which they had a conflict of interest. The bill would include the following definitions:

- “state agency” would mean a board, commission, council, committee, department, office, agency, or other governmental entity in the state executive branch;
- “conflict of interest” would mean the conflict between an official decision made by a state agency governing board member or governing officer in the individual’s official capacity and the

individual's private financial interest in which the individual realizes any pecuniary gain; and

- "financial interest" would mean ownership or control, directly or indirectly, of an ownership interest of at least 5 percent in a person, including the right to share in profits, proceeds, or capital gains, or an ownership interest that an individual could reasonably foresee could result in any financial benefit. The term would not include an interest in a retirement plan, a blind trust, insurance coverage, or capital gains.

In each matter before a governing board or governing officer for which a member had a conflict of interest, the individual would be required to disclose the conflict in writing to the agency and could not participate in the decision on the matter. If a majority of the governing board members or the governing officer had a conflict of interest, the board or officer could decide the matter only if:

- each member, or the officer, discloses the conflict in writing; and
- the board, or officer, makes a finding that an emergency exists that would require a decision despite the conflict of interest.

An individual who knowingly fails to disclose a conflict of interest and refrain from participation would commit a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000).

Disclosures would be public information and would be filed with the Texas Ethics Commission.

The bill would take effect September 1, 2015.

SUBJECT: Adding certain types of carbon dioxide to abusable volatile chemicals list

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Herrero, Moody, Canales, Hunter, Leach, Simpson

0 nays

1 absent — Shaheen

WITNESSES: For — (*Registered, but did not testify*: Craig Pardue, Dallas County)

Against — None

On — (*Registered, but did not testify*: Annabelle Dillard, Texas  
Department of State Health Services)

BACKGROUND: Health and Safety Code, ch. 485 governs sales, permits, and signs relating to abusable volatile chemicals. Sec. 485.001(1) contains the definition of "abusable volatile chemical," which includes types of chemicals and nitrous oxide.

Health and Safety Code, ch. 485, subch. C establishes several criminal offenses relating to abusable volatile chemicals. These include possession and use, delivery to a minor, and selling the chemicals without a required sign. Subch. C establishes administrative penalties for violating ch. 485 on abusable volatile chemicals or a rule or order adopted under the chapter.

DIGEST: CSHB 4077 would add certain types of carbon dioxide to the list of abusable volatile chemicals in Health and Safety Code, sec. 485.001.

The bill would add carbon dioxide to the list if it was in the form of a compressed gas propellant in a cartridge, tank, canister, or cylinder, that was not:

- a pesticide subject to the Texas Agriculture Code, ch. 76 covering pesticide and herbicide regulation or the Federal Environmental

Pesticide Control Act of 1972;

- a food, drug, or cosmetic subject to ch. 431 or to the Federal Food, Drug, and Cosmetic Act; or
- a beverage subject to the Federal Alcohol Administration Act.

Criminal and civil penalties under Health and Safety Code, ch. 485, subchapters C and D would apply only to acts or omissions involving carbon dioxide as an abusable volatile chemical that occurred on or after January 1, 2016.

The bill would take effect September 1, 2015.

SUBJECT: Sex offender treatment as a parole condition for certain sex offenders

COMMITTEE: Corrections — committee substitute recommended

VOTE: 7 ayes — Murphy, J. White, Allen, Keough, Krause, Schubert, Tinderholt  
0 nays

WITNESSES: For — Andy Kahan, City of Houston; Michelle Heinz; Rikki Robbins; Laurie Thompson; (*Registered, but did not testify*: Jessica Anderson, Houston Police Department)

Against — None

On — Rissie Owens, Texas Board of Pardons and Paroles; Patricia Cummings, Texas Criminal Defense Lawyers Association; (*Registered, but did not testify*: Bettie Wells, Board of Pardons and Paroles; Stuart Jenkins, Texas Department of Criminal Justice)

BACKGROUND: Government Code, ch. 508 governs parole and mandatory supervision, a type of release for inmates being released from state correctional facilities. Ch. 508, subch. F governs required conditions of parole and mandatory supervision, and subch. G governs discretionary conditions of the two.

DIGEST: CSHB 3387 would require parole panels to mandate that offenders released on parole or mandatory supervision participate in a sex offender treatment program if:

- the offender was serving a sentence for a sex offense listed in Penal Code, ch. 21 or was required to register under the state's sex offender registration laws in Code of Criminal Procedure, ch. 62; and
- immediately before the release the offender was participating in a sex offender treatment program while incarcerated.

Parole panels would be authorized to require as a condition of release on parole or mandatory supervision that offenders participate in a sex

offender treatment programs if:

- the offender was serving a sentence for a sex offense listed in Penal Code, ch. 21 or was required to register under the state's sex offender registration laws in Code of Criminal Procedure, ch. 62; or
- an agent of the Board of Pardons and Paroles made an affirmative finding that the offender constituted a threat to society because of the offender's lack of sexual control, regardless of the crime for which the individual was convicted.

The affirmative finding would have to be made on evidence that a sex offense occurred during the offense for which the individual was incarcerated.

The bill would take effect September 1, 2015, and would apply only to parole panel decisions made on or after that date.

**SUBJECT:** Limiting liability for directors of the Charter School Finance Corporation

**COMMITTEE:** Investments and Financial Services — committee substitute recommended

**VOTE:** 7 ayes — Parker, Longoria, Capriglione, Flynn, Landgraf, Pickett, Stephenson  
0 nays

**WITNESSES:** For — None  
Against — None  
On — (*Registered, but did not testify*: Lee Deviney, Kevin Van Oort, Texas Public Finance Authority)

**BACKGROUND:** Education Code, sec. 53.351 directs the Texas Public Finance Authority to create a nonprofit corporation for the purpose of issuing bonds to pay for the acquisition, construction, repair, or renovation of open-enrollment charter schools. The Texas Public Finance Authority is required to appoint the directors of the Charter School Finance Corporation in consultation with the commissioner of education.

Government employees enjoy certain immunities from liability for actions taken in the performance of their duties. The directors of the Charter School Finance Corporation serve without compensation for their work with the corporation, so they are not considered government employees. Thus, many of the protections available to traditional government employees do not apply to them.

**DIGEST:** CSHB 2851 would amend the Education Code so that the directors, officers, or employees of the Charter School Finance Corporation would not be held personally liable for:

- damage, loss, or injury resulting from the performance of their duties; or
- any commitment or agreement that they had executed on behalf of the

Charter School Finance Corporation.

The bill would amend Education Code, sec. 51.351(b) to require that any appointment made to the Charter School Finance Corporation by the Texas Public Finance Authority be subject to the approval of the governor.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUBJECT: Authorizing tourism public improvement districts in certain municipalities

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 5 ayes — Alvarado, Hunter, R. Anderson, Bernal, Elkins

2 nays — Schaefer, M. White

WITNESSES: For — Mary German, Arlington Convention and Visitors Bureau; Robert Lander, Austin Convention and Visitors Bureau; Scott Joslove, Texas Hotel and Lodging Association; (*Registered, but did not testify*: John Hrnair and Nancy Williams, City of Austin; Megan Dodge, City of San Antonio; Dana Harris, Greater Austin Chamber of Commerce; John Clamp, San Antonio Hotel Association; Justin Bragiel, Texas Hotel and Lodging Association)

Against — None

BACKGROUND: Local Government Code, ch. 372 establishes the Public Improvement District Assessment Act, which authorizes certain municipalities and counties to create public improvement districts (PIDs) to undertake and fund certain projects. PIDs may be created to address a variety of issues, including supplemental services for improvement and promotion of districts, such as advertising and business recruitment and development.

Sec. 372.0035 grants the city of Dallas the authority to create a PID composed solely of hotels with 100 or more rooms. The purpose of the tourism PID in Dallas was to allow hotels to propose a self-assessment that would create additional funding for marketing and incentives to attract convention and group business to their area. Since Dallas established the tourism PID, its Convention and Visitor Bureau has doubled its closure rate for securing city-wide conventions.

DIGEST: HB 2688 would expand authority to certain municipalities to create public improvement districts in areas composed solely of hotels.

A city with a population of more than 750,000 and less than 2 million

(Austin and San Antonio) would be authorized to establish a public improvement district in an area solely composed of hotels with at least 100 rooms ordinarily used for sleeping.

A city with a population of more than 325,000 and less than 625,000 (Arlington) would be authorized to establish a public improvement district in an area solely composed of hotels with at least 75 rooms ordinarily used for sleeping.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUBJECT: Expanding ombudsman oversight authority of juvenile detention facilities

COMMITTEE: Juvenile Justice and Family Issues — favorable, without amendment

VOTE: 7 ayes — Dutton, Riddle, Hughes, Peña, Rose, Sanford, J. White

0 nays

WITNESSES: For — Lauren Rose, Texans Care for Children; Elizabeth Henneke, Texas Criminal Justice Coalition; Brandy Harris; (*Registered, but did not testify*: Matt Simpson, ACLU of Texas; Kathryn Lewis, Disability Rights Texas; Traci Berry, Goodwill Central Texas; Thomas Ratliff, Harris/Fort Bend County Criminal Lawyers Association; Will Francis, National Association of Social Workers-Texas Chapter; Mary Mergler, Texas Appleseed; Lori Henning, Texas Association of Goodwills; Sarah Crockett, Texas CASA; Patricia Cummings, Texas Criminal Defense Lawyers Association; Ryan Parke, Texas Home School Coalition; Yannis Banks, Texas NAACP; Alicia Vogel)

Against — Douglas Vance, Texas Juvenile Detention Association; (*Registered, but did not testify*: Tom Brooks, Harris County Juvenile Probation Department)

On — Debbie Unruh, Independent Ombudsman for Texas Juvenile Justice Department; Jill Mata, Texas Juvenile Justice Department; (*Registered, but did not testify*: Lynne Wilkerson, Bexar County Juvenile Probation Department; Ron Quiros, Guadalupe County Juvenile Services; Randy Turner, Tarrant County Juvenile Services; Lisa Tomlinson, Texas Probation Association)

BACKGROUND: Human Resources Code, ch. 261 establishes the Office of Independent Ombudsman, which is tasked with investigating, evaluating, and securing the rights of youths committed to the Texas Juvenile Justice Department. The office is independent of the Texas Juvenile Justice Department, and its duties include reviewing the department's procedures; evaluating delivery of services to youths; reviewing certain complaints; investigating certain complaints, other than those alleging crimes; reviewing agency

facilities and procedures; providing assistance to children and their families; and recommending agency changes.

Under current law, the office may only perform these essential functions in state-run juvenile facilities, and does not have oversight authority for other types of juvenile justice facilities.

**DIGEST:**

HB 3277 would expand the oversight authority of the Office of the Independent Ombudsman to include juvenile justice facilities beyond those that are operated by the Texas Juvenile Justice Department. This would include facilities operated wholly or in part by the Texas Juvenile Justice Board, another governmental unit, or by a private vendor under contract with the board, county, or certain other governmental units serving juveniles.

Under the bill, the Office of Independent Ombudsman would have oversight over a public or private juvenile pre-adjudication secure detention facility, including a holdover facility; a public or private juvenile post-adjudication secure correctional facility; and a public or private non-secure juvenile post-adjudication residential treatment facility not licensed by the Department of Family and Protective Services or the Department of State Health Services.

The bill would take effect September 1, 2015.

SUBJECT: Court consideration of scientific evidence for some writs of habeas corpus

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Herrero, Moody, Canales, Hunter, Leach, Simpson

0 nays

1 absent — Shaheen

WITNESSES: For — Amanda Marzullo, Texas Defender Service; (*Registered, but did not testify*: Matt Simpson, ACLU of Texas; Kristin Etter, Texas Criminal Defense Lawyers Association; Scott Henson, Texas Criminal Justice Coalition; Sarah Pahl, Texas Criminal Justice Coalition; Marc Levin, Texas Public Policy Foundation Center for Effective Justice)

Against — None

BACKGROUND: Writs of habeas corpus are a way to challenge the constitutionality of a criminal conviction or the process that resulted in a conviction or sentence. Code of Criminal Procedure, Art. 11.073 allows courts to grant relief on writs of habeas corpus, subject to certain criteria, if relevant scientific evidence that is currently available was not available at the time of trial because the evidence was not ascertainable through the exercise of reasonable diligence.

Under Art. 11.073(d) when courts are making certain required findings about the scientific evidence, they must consider whether the scientific knowledge or method on which the relevant scientific evidence was based had changed since the trial or the date of an application for a writ of habeas corpus.

DIGEST: CSHB 3724 would revise the items that courts reviewing writs of habeas corpus under Code of Criminal Procedure, Art. 11.073 must consider when making a finding on whether relevant scientific evidence was ascertainable. Instead of considering whether scientific knowledge had changed, courts would consider whether the *field of scientific knowledge*

had changed. Court also would have to consider a new item, whether a testifying expert's scientific knowledge had changed.

The bill would take effect September 1, 2015.

SUBJECT: Proceeds from criminal asset forfeitures for certain college scholarships

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 5 ayes — Herrero, Moody, Canales, Hunter, Leach

0 nays

2 absent — Shaheen, Simpson

WITNESSES: For — Derek Cohen, Texas Public Policy Foundation; (*Registered, but did not testify*: William Squires, Bexar County District Attorney; Daniel Earnest, Combined Law Enforcement of Texas; Bill Elkin, Houston Police Retired Officers Association; James Smith, San Antonio Police Department; Joe Carrillo and Jimmy Rodriguez, San Antonio Police Officers Association; R. Glenn Smith, Sheriffs Association of Texas; Scott Henson, Texas Criminal Justice Coalition)

Against — (*Registered, but did not testify*: Lisa Dickison; Leah Lobsiger)

On — (*Registered, but did not testify*: Nicole Czajkoski, Montgomery County District Attorney's Office)

BACKGROUND: Code of Criminal Procedure Chapter 59 governs the forfeiture of contraband used in the commission of crimes. Art. 59.06 covers the disposition of forfeited assets and property. Under Art. 59.06(c), if there is an agreement between the prosecutor and local and state law enforcement agencies, the money, securities, and proceeds from the sale of forfeited contraband must be deposited according to the terms of the agreement into one or more funds listed in the section.

Under Art. 59.06(g), law enforcement agencies and prosecutors are required to account for seized property and proceeds in an annual audit that is submitted to the attorney general.

DIGEST: HB 530 would allow law enforcement agencies that receive proceeds from the sale of forfeited contraband under the Code of Criminal Procedure

Chapter 59 to transfer up to 10 percent of the amount they receive to a fund for college scholarships for children of peace officers killed in the line of duty. The scholarships could go only to children of officers employed by the law enforcement agency or another agency with overlapping jurisdiction. The scholarships could be used only to pay for the cost of higher education, including tuition, fees, and costs for housing, books, supplies, transportation, and other related personal expenses.

The attorney general would be required to develop a report on forfeited assets based on information currently submitted to the attorney general by law enforcement agencies and prosecutors. The report would have to detail the total funds forfeited or received after the sale of forfeited property. The attorney general would have to include a link to the report on the agency's website.

The bill would take effect September 1, 2015.

**SUPPORTERS  
SAY:**

HB 530 would help support the families of peace officers killed in the line of duty by allowing proceeds from criminal asset forfeitures to be used for college scholarships for the officers' children. The state should do all it can to support the families of officers who give their lives protecting Texans.

HB 530 would be a logical extension of the current allowable uses of the proceeds from asset forfeitures which include donations to entities to assist with victims and witness services, certain education, and training programs, and other law enforcement purposes. The bill would not require agencies to offer scholarships, but allow agencies to do so if they choose. The bill would limit the amount of funds that can be used for scholarships and would set appropriate parameters on how the money could be used.

The reporting requirement in HB 530 would increase transparency about seized assets by making information about them more accessible. Law enforcement agencies and prosecutors already are required to submit audits on seized property to the attorney general, and HB 530 would require only that the information be compiled into a report and accessible.

HB 530 is narrowly drawn to apply only to scholarships and reporting and

is not designed to be a vehicle to address larger issues about the overall structure of state's asset forfeiture laws.

OPPONENTS  
SAY:

Rather than expand uses of assets from the state's forfeiture laws, the state should reexamine the entire program. Expanding the uses of the funds could help build a constituency for a flawed program.

OTHER  
OPPONENTS  
SAY:

Any funds seized under the state's asset forfeiture laws should go into the state's general fund, not a special fund. These proceeds should not go to the benefit of those who seize them, however worthy the proposed use of the proceeds may be.

**SUBJECT:** Raising limit for rural scholarship fund; creating new fund

**COMMITTEE:** Higher Education — favorable, without amendment

**VOTE:** 8 ayes — Zerwas, Howard, Clardy, Crownover, Martinez, Morrison, Raney, C. Turner

0 nays

1 absent — Alonzo

**WITNESSES:** For — Frank Weaver, Valley Telephone Co. Inc.; Sally Velasquez, Willacy County; (*Registered, but did not testify:* Richard Hardcastle, Rural Telephone Co-ops; Leonard Beurer, Valley Telephone Co.)

Against — None

On — Bryant Clayton, Texas Comptroller of Public Accounts; (*Registered, but did not testify:* Frances Torres, Texas Comptroller of Public Accounts)

**BACKGROUND:** Property Code, secs. 71-76 govern unclaimed property and the delivery of abandoned property to the comptroller. Sec. 74.3011 allows local telephone exchange companies to deposit a combined total of up to \$800,000 annually in unclaimed or abandoned money to the rural scholarship fund instead of to the comptroller. This fund helps enable low-income students from rural areas to obtain postsecondary education.

**DIGEST:** HB 227 would increase the limit for unclaimed money that could be deposited into the rural scholarship fund to \$1 million per year. In addition, the bill would establish a new economic development fund, which also would be capped at \$1 million per year. This fund would enable rural, low-income areas to promote or support economic and infrastructure development.

The bill would take effect September 1, 2015.

NOTES:

According to the Legislative Budget Board's fiscal note, HB 227 would cost \$2.4 million per year in general revenue due to unclaimed money that would be deposited in the two funds specified by the bill instead of remitted to the comptroller.